

As the issue whether statements made on a Form U5 are protected by absolute privilege has been well-settled by the Court of Appeals, there can be no dispute that Plaintiff's defamation claim must be dismissed as a matter of law.

Alternatively, Plaintiff released all claims of defamation related to statements made in his Form U5. Plaintiff's Form U4, which he signed, provides, in part:

I authorize all my employers and any other person to furnish to any jurisdiction, SRO, designated entity, employer, prospective employer, or any agent acting on its behalf, any information they have, including without limitation my creditworthiness, character, ability, business activities, educational background, general reputation, history of my employment and, in the case of former employers, complete reasons for my termination. Moreover, I release each employer, former employer and each other person from any and all liability, of whatever nature, by reason of furnishing any of the above information, including that information reported on the Uniform Termination Notice for Securities Industry Registration (Form U5).

Exhibit "2" at page 12, paragraph 5. Thus, because Plaintiff expressly waived all claims of defamation related to his Form U5, his claim for defamation is barred.

CONCLUSION

For all the foregoing reasons, Defendant respectfully requests that this Court grant Defendant's motion, dismiss Plaintiff's Complaint in its entirety, and grant such other and further relief as this Court may deem just and proper.

Dated: May 3, 2013

**JPMORGAN CHASE LEGAL
& COMPLIANCE DEPARTMENT**

By: 

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BENJAMIN MESSINGER,	:	
	:	
Plaintiff,	:	ECF
	:	
- against -	:	13 Civ. 2444 (AJN) (MHD)
	:	
JPMORGAN CHASE BANK, N.A.,	:	<u>CERTIFICATE OF SERVICE</u>
	:	
Defendant.	:	

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I hereby certify that on May 3, 2013 I caused a copy of the following documents:

NOTICE OF MOTION TO DISMISS PURSUANT TO FED. R.CIV. P. 12(b)(6),

**DECLARATION OF FREDERIC L. LIEBERMAN PURSUANT TO
28 U.S.C. § 1746 IN SUPPORT OF DEFENDANT'S MOTION
TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)**

and

**DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO DISMISS**

to be served by First Class Mail directed to the attorneys for Plaintiff at the following address:

Walker G. Harman, Jr., Esq.
The Harman Firm, PC
200 West 57th Street
Suite 900
New York, New York 10019

Dated: May 3, 2013



Frederic L. Lieberman, Esq.